

Introduced by Senator Dutton

February 24, 2009

An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 274, as amended, Dutton. Property tax: base year value transfers.

(1) The California Constitution authorizes the Legislature to provide that a person who is either severely disabled or over the age of 55 years may transfer the base year value, as defined, of property that is eligible for the homeowners' property tax exemption to a replacement dwelling that is of equal or lesser value located within the same county as the property from which the base year value is transferred, provided the replacement dwelling is purchased or newly constructed within 2 years of the sale of the original property, subject to certain conditions.

This bill would provide that the base year value of an original property may be transferred to a replacement dwelling that is of greater value, and would require the base year value of the replacement dwelling to be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the base year value of the original property. This bill would extend the period of time during which a severely disabled person or a person over 55 years of age has to purchase or construct a replacement dwelling, in order to qualify for the transfer, from 2 years to 3 years of the sale of the original property.

(2) Existing law defines "full cash value of the replacement dwelling" for purposes of this property tax relief to mean the replacement

dwelling's full cash value, determined in accordance with a specified provision, as of the date on which the replacement dwelling was purchased or new construction was completed.

This bill would provide that full cash value of the replacement dwelling may also mean, in specified circumstances, the ~~base year fair market~~ value of the replacement dwelling ~~at the time, determined in accordance with a specified provision, as of the date on which the~~ original property is sold.

(3) By changing the manner in which local assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(5) This bill would take effect immediately as a tax levy, but would become operative only if Senate Constitutional Amendment ~~_____~~ 11 of the 2009–10 Regular Session is approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 69.5 of the Revenue and Taxation Code
2 is amended to read:
3 69.5. (a) (1) Notwithstanding any other provision of law,
4 pursuant to subdivision (a) of Section 2 of Article XIII A of the
5 California Constitution, any person over the age of 55 years, or
6 any severely and permanently disabled person, who resides in

1 property that is eligible for the homeowners' exemption under
2 subdivision (k) of Section 3 of Article XIII of the California
3 Constitution and Section 218 may transfer, subject to the conditions
4 and limitations provided in this section, the base year value of that
5 property in both of the following circumstances:

6 (A) To any replacement dwelling of equal or lesser value that
7 is located within the same county and is purchased or newly
8 constructed by that person as his or her principal residence within
9 three years of the sale by that person of the original property,
10 provided that the base year value of the original property shall not
11 be transferred to the replacement dwelling until the original
12 property is sold.

13 (B) To any replacement dwelling of greater value that is located
14 within the same county and is purchased or newly constructed by
15 that person as his or her principal place of residence within three
16 years of the sale by that person of the original property, provided
17 that the base year value of the original property shall not be
18 transferred to the replacement dwelling until the original property
19 is sold. The base year value of the replacement dwelling shall be
20 calculated by adding the difference between the full cash value of
21 the original property and the full cash value of the replacement
22 dwelling to the base year value of the original property.

23 (2) Notwithstanding the limitation in paragraph (1) requiring
24 that the original property and the replacement dwelling be located
25 in the same county, this limitation shall not apply in any county
26 in which the county board of supervisors, after consultation with
27 local affected agencies within the boundaries of the county, adopts
28 an ordinance making the provisions of paragraph (1) also applicable
29 to situations in which replacement dwellings are located in that
30 county and the original properties are located in another county
31 within this state. The authorization contained in this paragraph
32 shall be applicable in a county only if the ordinance adopted by
33 the board of supervisors complies with all of the following
34 requirements:

35 (A) It is adopted only after consultation between the board of
36 supervisors and all other local affected agencies within the county's
37 boundaries.

38 (B) It requires that all claims for transfers of base year value
39 from original property located in another county be granted if the
40 claims meet the applicable requirements of both subdivision (a)

1 of Section 2 of Article XIII A of the California Constitution and
2 this section.

3 (C) It requires that all base year valuations of original property
4 located in another county and determined by its assessor be
5 accepted in connection with the granting of claims for transfers of
6 base year value.

7 (D) It provides that its provisions are operative for a period of
8 not less than five years.

9 (E) The ordinance specifies the date on and after which its
10 provisions shall be applicable. However, the date specified shall
11 not be earlier than November 9, 1988. The specified applicable
12 date may be a date earlier than the date the county adopts the
13 ordinance.

14 (b) In addition to meeting the requirements of subdivision (a),
15 any person claiming the property tax relief provided by this section
16 shall be eligible for that relief only if the following conditions are
17 met:

18 (1) The claimant is an owner and a resident of the original
19 property either at the time of its sale, or at the time when the
20 original property was substantially damaged or destroyed by
21 misfortune or calamity, or within two years of the purchase or new
22 construction of the replacement dwelling.

23 (2) The original property is eligible for the homeowners'
24 exemption, as the result of the claimant's ownership and occupation
25 of the property as his or her principal residence, either at the time
26 of its sale, or at the time when the original property was
27 substantially damaged or destroyed by misfortune or calamity, or
28 within two years of the purchase or new construction of the
29 replacement dwelling.

30 (3) At the time of the sale of the original property, the claimant
31 or the claimant's spouse who resides with the claimant is at least
32 55 years of age, or is severely and permanently disabled.

33 (4) At the time of claiming the property tax relief provided by
34 subdivision (a), the claimant is an owner of a replacement dwelling
35 and occupies it as his or her principal place of residence and, as a
36 result thereof, the property is currently eligible for the homeowners'
37 exemption or would be eligible for the exemption except that the
38 property is already receiving the exemption because of an
39 exemption claim filed by the previous owner.

1 (5) The original property of the claimant is sold by him or her
2 within two years of the purchase or new construction of the
3 replacement dwelling. For purposes of this paragraph, the purchase
4 or new construction of the replacement dwelling includes the
5 purchase of that portion of land on which the replacement building,
6 structure, or other shelter constituting a place of abode of the
7 claimant will be situated and that, pursuant to paragraph (3) of
8 subdivision (g), constitutes a part of the replacement dwelling.

9 (6) The replacement dwelling, including that portion of land on
10 which it is situated that is specified in paragraph (5), is located
11 entirely within the same county as the claimant's original property.

12 (7) The claimant has not previously been granted, as a claimant,
13 the property tax relief provided by this section, except that this
14 paragraph shall not apply to any person who becomes severely
15 and permanently disabled subsequent to being granted, as a
16 claimant, the property tax relief provided by this section for any
17 person over the age of 55 years. In order to prevent duplication of
18 claims under this section within this state, county assessors shall
19 report quarterly to the State Board of Equalization that information
20 from claims filed in accordance with subdivision (f) and from
21 county records as is specified by the board necessary to identify
22 fully all claims under this section allowed by assessors and all
23 claimants who have thereby received relief. The board may specify
24 that the information include all or a part of the names and social
25 security numbers of claimants and their spouses and the identity
26 and location of the replacement dwelling to which the claim
27 applies. The information may be required in the form of data
28 processing media or other media and in a format that is compatible
29 with the recordkeeping processes of the counties and the auditing
30 procedures of the state.

31 (c) The property tax relief provided by this section shall be
32 available if the original property or the replacement dwelling, or
33 both, of the claimant includes, but is not limited to, either of the
34 following:

35 (1) A unit or lot within a cooperative housing corporation, a
36 community apartment project, a condominium project, or a planned
37 unit development. If the unit or lot constitutes the original property
38 of the claimant, the assessor shall transfer to the claimant's
39 replacement dwelling only the base year value of the claimant's
40 unit or lot and his or her share in any common area reserved as an

1 appurtenance of that unit or lot. If the unit or lot constitutes the
2 replacement dwelling of the claimant, the assessor shall transfer
3 the base year value of the claimant's original property only to the
4 unit or lot of the claimant and any share of the claimant in any
5 common area reserved as an appurtenance of that unit or lot.

6 (2) A manufactured home or a manufactured home and any land
7 owned by the claimant on which the manufactured home is situated.
8 For purposes of this paragraph, "land owned by the claimant"
9 includes a pro rata interest in a resident-owned mobilehome park
10 that is assessed pursuant to subdivision (b) of Section 62.1.

11 (A) If the manufactured home or the manufactured home and
12 the land on which it is situated constitutes the claimant's original
13 property, the assessor shall transfer to the claimant's replacement
14 dwelling either the base year value of the manufactured home or
15 the base year value of the manufactured home and the land on
16 which it is situated, as appropriate. If the manufactured home
17 dwelling that constitutes the original property of the claimant
18 includes an interest in a resident-owned mobilehome park, the
19 assessor shall transfer to the claimant's replacement dwelling the
20 base year value of the claimant's manufactured home and his or
21 her pro rata portion of the real property of the park. No transfer of
22 base year value shall be made by the assessor of that portion of
23 land that does not constitute a part of the original property, as
24 provided in paragraph (4) of subdivision (g).

25 (B) If the manufactured home or the manufactured home and
26 the land on which it is situated constitutes the claimant's
27 replacement dwelling, the assessor shall transfer the base year
28 value of the claimant's original property either to the manufactured
29 home or the manufactured home and the land on which it is
30 situated, as appropriate. If the manufactured home dwelling that
31 constitutes the replacement dwelling of the claimant includes an
32 interest in a resident-owned mobilehome park, the assessor shall
33 transfer the base year value of the claimant's original property to
34 the manufactured home of the claimant and his or her pro rata
35 portion of the park. No transfer of base year value shall be made
36 by the assessor to that portion of land that does not constitute a
37 part of the replacement dwelling, as provided in paragraph (3) of
38 subdivision (g).

39 This subdivision shall be subject to the limitations specified in
40 subdivision (d).

1 (d) The property tax relief provided by this section shall be
2 available to a claimant who is the coowner of the original property,
3 as a joint tenant, a tenant in common, or a community property
4 owner, subject to the following limitations:

5 (1) If a single replacement dwelling is purchased or newly
6 constructed by all of the coowners and each coowner retains an
7 interest in the replacement dwelling, the claimant shall be eligible
8 under this section whether or not any or all of the remaining
9 coowners would otherwise be eligible claimants.

10 (2) If two or more replacement dwellings are separately
11 purchased or newly constructed by two or more coowners and
12 more than one coowner would otherwise be an eligible claimant,
13 only one coowner shall be eligible under this section. These
14 coowners shall determine by mutual agreement which one of them
15 shall be deemed eligible.

16 (3) If two or more replacement dwellings are separately
17 purchased or newly constructed by two coowners who held the
18 original property as community property, only the coowner who
19 has attained the age of 55 years, or is severely and permanently
20 disabled, shall be eligible under this section. If both spouses are
21 over 55 years of age, they shall determine by mutual agreement
22 which one of them is eligible.

23 In the case of coowners whose original property is a multiunit
24 dwelling, the limitations imposed by paragraphs (2) and (3) shall
25 only apply to coowners who occupied the same dwelling unit
26 within the original property at the time specified in paragraph (2)
27 of subdivision (b).

28 (e) Upon the sale of original property, the assessor shall
29 determine a new base year value for that property in accordance
30 with subdivision (a) of Section 2 of Article XIII A of the California
31 Constitution and Section 110.1, whether or not a replacement
32 dwelling is subsequently purchased or newly constructed by the
33 former owner or owners of the original property.

34 This section shall not apply unless the transfer of the original
35 property is a change in ownership that either (1) subjects that
36 property to reappraisal at its current fair market value in accordance
37 with Section 110.1 or 5803 or (2) results in a base year value
38 determined in accordance with this section, Section 69, or Section
39 69.3 because the property qualifies under this section, Section 69,
40 or Section 69.3 as a replacement dwelling or property.

1 (f) (1) A claimant shall not be eligible for the property tax relief
2 provided by this section unless the claimant provides to the
3 assessor, on a form that shall be designed by the State Board of
4 Equalization and that the assessor shall make available upon
5 request, the following information:

6 (A) The name and social security number of each claimant and
7 of any spouse of the claimant who is a record owner of the
8 replacement dwelling.

9 (B) Proof that the claimant or the claimant's spouse who resided
10 on the original property with the claimant was, at the time of its
11 sale, at least 55 years of age, or severely and permanently disabled.
12 Proof of severe and permanent disability shall be considered a
13 certification, signed by a licensed physician and surgeon of
14 appropriate specialty, attesting to the claimant's severely and
15 permanently disabled condition. In the absence of available proof
16 that a person is over 55 years of age, the claimant shall certify
17 under penalty of perjury that the age requirement is met. In the
18 case of a severely and permanently disabled claimant either of the
19 following shall be submitted:

20 (i) A certification, signed by a licensed physician or surgeon of
21 appropriate specialty that identifies specific reasons why the
22 disability necessitates a move to the replacement dwelling and the
23 disability-related requirements, including any locational
24 requirements, of a replacement dwelling. The claimant shall
25 substantiate that the replacement dwelling meets disability-related
26 requirements so identified and that the primary reason for the move
27 to the replacement dwelling is to satisfy those requirements. If the
28 claimant, or the claimant's spouse or guardian, so declares under
29 penalty of perjury, it shall be rebuttably presumed that the primary
30 purpose of the move to the replacement dwelling is to satisfy
31 identified disability-related requirements.

32 (ii) The claimant's substantiation that the primary purpose of
33 the move to the replacement dwelling is to alleviate financial
34 burdens caused by the disability. If the claimant, or the claimant's
35 spouse or guardian, so declares under penalty of perjury, it shall
36 be rebuttably presumed that the primary purpose of the move is
37 to alleviate the financial burdens caused by the disability.

38 (C) The address and, if known, the assessor's parcel number of
39 the original property.

1 (D) The date of the claimant's sale of the original property and
2 the date of the claimant's purchase or new construction of a
3 replacement dwelling.

4 (E) A statement by the claimant that he or she occupied the
5 replacement dwelling as his or her principal place of residence on
6 the date of the filing of his or her claim.

7 (F) Any claim under this section shall be filed within four years
8 of the date the replacement dwelling was purchased or the new
9 construction of the replacement dwelling was completed subject
10 to subdivision (k) or (m).

11 (2) A claim for transfer of base year value under this section
12 that is filed after the expiration of the filing period set forth in
13 subparagraph (F) of paragraph (1) shall be considered by the
14 assessor, subject to all of the following conditions:

15 (A) Any base year value transfer granted pursuant to that claim
16 shall apply commencing with the lien date of the assessment year
17 in which the claim is filed.

18 (B) The full cash value of the replacement property in the
19 assessment year described in subparagraph (A) shall be the base
20 year value of the real property in the assessment year in which the
21 base year value was transferred, factored to the assessment year
22 described in subparagraph (A) for both of the following:

23 (i) Inflation as annually determined in accordance with
24 paragraph (1) of subdivision (a) of Section 51.

25 (ii) Any subsequent new construction occurring with respect to
26 the subject real property that does not qualify for property tax relief
27 pursuant to the criteria set forth in subparagraphs (A) and (B) of
28 paragraph (4) of subdivision (h).

29 (g) For purposes of this section:

30 (1) "Person over the age of 55 years" means any person or the
31 spouse of any person who has attained the age of 55 years or older
32 at the time of the sale of the original property.

33 (2) "Base year value of the original property" means its base
34 year value, as determined in accordance with Section 110.1, with
35 the adjustments permitted by subdivision (b) of Section 2 of Article
36 XIII A of the California Constitution and subdivision (f) of Section
37 110.1, determined as of the date immediately prior to the date that
38 the original property is sold by the claimant, or in the case where
39 the original property has been substantially damaged or destroyed
40 by misfortune or calamity and the owner does not rebuild on the

1 original property, determined as of the date immediately prior to
2 the misfortune or calamity.

3 If the replacement dwelling is purchased or newly constructed
4 after the transfer of the original property, “base year value of the
5 original property” also includes any inflation factor adjustments
6 permitted by subdivision (f) of Section 110.1 for the period
7 subsequent to the sale of the original property. The base year or
8 years used to compute the “base year value of the original property”
9 shall be deemed to be the base year or years of any property to
10 which that base year value is transferred pursuant to this section.

11 (3) “Replacement dwelling” means a building, structure, or
12 other shelter constituting a place of abode, whether real property
13 or personal property, that is owned and occupied by a claimant as
14 his or her principal place of residence, and any land owned by the
15 claimant on which the building, structure, or other shelter is
16 situated. For purposes of this paragraph, land constituting a part
17 of a replacement dwelling includes only that area of reasonable
18 size that is used as a site for a residence, and “land owned by the
19 claimant” includes land for which the claimant either holds a
20 leasehold interest described in subdivision (c) of Section 61 or a
21 land purchase contract. Each unit of a multiunit dwelling shall be
22 considered a separate replacement dwelling. For purposes of this
23 paragraph, “area of reasonable size that is used as a site for a
24 residence” includes all land if any nonresidential uses of the
25 property are only incidental to the use of the property as a
26 residential site. For purposes of this paragraph, “land owned by
27 the claimant” includes an ownership interest in a resident-owned
28 mobilehome park that is assessed pursuant to subdivision (b) of
29 Section 62.1.

30 (4) “Original property” means a building, structure, or other
31 shelter constituting a place of abode, whether real property or
32 personal property, that is owned and occupied by a claimant as his
33 or her principal place of residence, and any land owned by the
34 claimant on which the building, structure, or other shelter is
35 situated. For purposes of this paragraph, land constituting a part
36 of the original property includes only that area of reasonable size
37 that is used as a site for a residence, and “land owned by the
38 claimant” includes land for which the claimant either holds a
39 leasehold interest described in subdivision (c) of Section 61 or a
40 land purchase contract. Each unit of a multiunit dwelling shall be

1 considered a separate original property. For purposes of this
2 paragraph, “area of reasonable size that is used as a site for a
3 residence” includes all land if any nonresidential uses of the
4 property are only incidental to the use of the property as a
5 residential site. For purposes of this paragraph, “land owned by
6 the claimant” includes an ownership interest in a resident-owned
7 mobilehome park that is assessed pursuant to subdivision (b) of
8 Section 62.1.

9 (5) “Equal or lesser value” means that the amount of the full
10 cash value of a replacement dwelling does not exceed one of the
11 following:

12 (A) One hundred percent of the amount of the full cash value
13 of the original property if the replacement dwelling is purchased
14 or newly constructed prior to the date of the sale of the original
15 property.

16 (B) One hundred five percent of the amount of the full cash
17 value of the original property if the replacement dwelling is
18 purchased or newly constructed within the first year following the
19 date of the sale of the original property.

20 (C) One hundred ten percent of the amount of the full cash value
21 of the original property if the replacement dwelling is purchased
22 or newly constructed within the second year following the date of
23 the sale of the original property.

24 (D) One hundred fifteen percent of the amount of the full cash
25 value of the original property if the replacement dwelling is
26 purchased or newly constructed within the third year following
27 the date of the sale of the original property.

28 For the purposes of this paragraph, except as otherwise provided
29 in paragraph (4) of subdivision (h), if the replacement dwelling is,
30 in part, purchased and, in part, newly constructed, the date the
31 “replacement dwelling is purchased or newly constructed” is the
32 date of purchase or the date of completion of construction,
33 whichever is later.

34 (6) “Full cash value of the replacement dwelling” means either
35 of the following:

36 (A) In the case where base year value is transferred from an
37 original property to a replacement dwelling that is purchased or
38 newly constructed prior to the date of the sale of the original
39 property and the base year value of the replacement dwelling has
40 decreased since the date of purchase of the replacement dwelling,

~~its full cash value shall be the base year value of the replacement dwelling at the time the original property is sold. property and the fair market value of the replacement dwelling has decreased since the date of purchase of the replacement dwelling, its full cash value shall be the fair market value, as determined in accordance with Section 110, as of the date on which the original property is sold.~~

(B) In the case of any other transfer of base year value from an original property to a replacement dwelling, its full cash value shall be determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means either of the following:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by

1 the spouse under this section the condition of eligibility specified
2 in paragraph (7) of subdivision (b) has been met.

3 (10) "Property that is eligible for the homeowners' exemption"
4 includes property that is the principal place of residence of its
5 owner and is entitled to exemption pursuant to Section 205.5.

6 (11) "Person" means any individual, but does not include any
7 firm, partnership, association, corporation, company, or other legal
8 entity or organization of any kind.

9 (12) "Severely and permanently disabled" means any person
10 described in subdivision (b) of Section 74.3.

11 (13) For the purposes of this section property is "substantially
12 damaged or destroyed by misfortune or calamity" if it sustains
13 physical damage amounting to more than 50 percent of its full
14 cash value immediately prior to the misfortune or calamity.
15 Damage includes a diminution in the value of property as a result
16 of restricted access to the property where the restricted access was
17 caused by the misfortune or calamity and is permanent in nature.

18 (h) (1) Upon the timely filing of a claim described in
19 subparagraph (F) of paragraph (1) of subdivision (f), the assessor
20 shall adjust the new base year value of the replacement dwelling
21 in conformity with this section. This adjustment shall be made as
22 of the latest of the following dates:

23 (A) The date the original property is sold.

24 (B) The date the replacement dwelling is purchased.

25 (C) The date the new construction of the replacement dwelling
26 is completed.

27 (2) Any taxes that were levied on the replacement dwelling prior
28 to the filing of the claim on the basis of the replacement dwelling's
29 new base year value, and any allowable annual adjustments thereto,
30 shall be canceled or refunded to the claimant to the extent that the
31 taxes exceed the amount that would be due when determined on
32 the basis of the adjusted new base year value.

33 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing
34 with Section 75) shall be utilized for purposes of implementing
35 this subdivision, including adjustments of the new base year value
36 of replacement dwellings acquired prior to the sale of the original
37 property.

38 (4) In the case where a claim under this section has been timely
39 filed and granted, and new construction is performed upon the
40 replacement dwelling subsequent to the transfer of base year value,

1 the property tax relief provided by this section also shall apply to
2 the replacement dwelling, as improved, and thus there shall be no
3 reassessment upon completion of the new construction if:

4 (A) In the case of a transfer of base year value from an original
5 property to a replacement dwelling that is of equal or lesser value,
6 both of the following conditions are met:

7 (i) The new construction is completed within three years of the
8 date of the sale of the original property and the owner notifies the
9 assessor in writing of completion of the new construction within
10 30 days after completion.

11 (ii) The fair market value of the new construction on the date
12 of completion, plus the full cash value of the replacement dwelling
13 on the date of acquisition, is not more than the full cash value of
14 the original property as determined pursuant to paragraph (7) of
15 subdivision (g) for purposes of granting the original claim.

16 (B) In the case of a transfer of base year value from an original
17 property to a replacement dwelling that is of greater value, the new
18 construction is completed within three years of the date of sale of
19 the original property and the owner notifies the assessor in writing
20 of completion of the new construction within 30 days after
21 completion.

22 (i) Any claimant may rescind a claim for the property tax relief
23 provided by this section and shall not be considered to have
24 received that relief for purposes of paragraph (7) of subdivision
25 (b), and the assessor shall grant the rescission, if a written notice
26 of rescission is delivered to the office of the assessor as follows:

27 (1) A written notice of rescission signed by the original filing
28 claimant or claimants is delivered to the office of the assessor in
29 which the original claim was filed.

30 (2) (A) Except as otherwise provided in this paragraph, the
31 notice of rescission is delivered to the office of the assessor before
32 the date that the county first issues, as a result of relief granted
33 under this section, a refund check for property taxes imposed upon
34 the replacement dwelling. If granting relief will not result in a
35 refund of property taxes, then the notice shall be delivered before
36 payment is first made of any property taxes, or any portion thereof,
37 imposed upon the replacement dwelling consistent with relief
38 granted under this section. If payment of the taxes is not made,
39 then notice shall be delivered before the first date that those
40 property taxes, or any portion thereof, imposed upon the

1 replacement dwelling, consistent with relief granted under this
2 section, are delinquent.

3 (B) Notwithstanding any other provision in this division, any
4 time the notice of rescission is delivered to the office of the assessor
5 within six years after relief was granted, provided that the
6 replacement property has been vacated as the claimant's principal
7 place of residence within 90 days after the original claim was filed,
8 regardless of whether the property continues to receive the
9 homeowners' exemption. If the rescission increases the base year
10 value of a property, or the homeowners' exemption has been
11 incorrectly allowed, appropriate escape assessments or
12 supplemental assessments, including interest as provided in Section
13 506, shall be imposed. The limitations periods for any escape
14 assessments or supplemental assessments shall not commence until
15 July 1 of the assessment year in which the notice of rescission is
16 delivered to the office of the assessor.

17 (3) The notice is accompanied by the payment of a fee as the
18 assessor may require, provided that the fee shall not exceed an
19 amount reasonably related to the estimated cost of processing a
20 rescission claim, including both direct costs and developmental
21 and indirect costs, such as costs for overhead, personnel, supplies,
22 materials, office space, and computers.

23 (j) (1) With respect to the transfer of base year value of original
24 properties to replacement dwellings located in the same county,
25 this section, except as provided in paragraph (3) or (4), shall apply
26 to any replacement dwelling that is purchased or newly constructed
27 on or after November 6, 1986.

28 (2) With respect to the transfer of base year value of original
29 properties to replacement dwellings located in different counties,
30 except as provided in paragraph (4), this section shall apply to any
31 replacement dwelling that is purchased or newly constructed on
32 or after the date specified in accordance with subparagraph (E) of
33 paragraph (2) of subdivision (a) in the ordinance of the county in
34 which the replacement dwelling is located, but shall not apply to
35 any replacement dwelling which was purchased or newly
36 constructed before November 9, 1988.

37 (3) With respect to the transfer of base year value by a severely
38 and permanently disabled person, this section shall apply only to
39 replacement dwellings that are purchased or newly constructed on
40 or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date that is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(l) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) of this section by Chapter 613 of the Statutes of 2001 shall apply:

1 (A) With respect to the transfer of base year value of original
2 properties to replacement dwellings located in the same county,
3 to any replacement dwelling that is purchased or newly constructed
4 on or after November 6, 1986.

5 (B) With respect to the transfer of base year value of original
6 properties to replacement dwellings located in different counties,
7 to any replacement dwelling that is purchased or newly constructed
8 on or after the date specified in accordance with subparagraph (E)
9 of paragraph (2) of subdivision (a) in the ordinance of the county
10 in which the replacement dwelling is located, but not to any
11 replacement dwelling that was purchased or newly constructed
12 before November 9, 1988.

13 (C) With respect to the transfer of base year value by a severely
14 and permanently disabled person, to replacement dwellings that
15 are purchased or newly constructed on or after June 6, 1990.

16 (2) The property tax relief provided by this section in accordance
17 with this subdivision shall apply prospectively only commencing
18 with the lien date of the assessment year in which the claim is
19 filed. There shall be no refund or cancellation of taxes prior to the
20 date that the claim is filed.

21 (n) A claim filed under this section is not a public document
22 and is not subject to public inspection, except that a claim shall be
23 available for inspection by the claimant or the claimant's spouse,
24 the claimant's or the claimant's spouse's legal representative, the
25 trustee of a trust in which the claimant or the claimant's spouse is
26 a present beneficiary, and the executor or administrator of the
27 claimant's or the claimant's spouse's estate.

28 (o) The amendments made to this section by the act adding this
29 subdivision shall apply commencing with the lien date for the
30 2010–11 fiscal year.

31 SEC. 2. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

36 SEC. 3. Notwithstanding Section 2229 of the Revenue and
37 Taxation Code, no appropriation is made by this act and the state
38 shall not reimburse any local agency for any property tax revenues
39 lost by it pursuant to this act.

1 SEC. 4. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.
3 However, the provisions of this act shall become operative only
4 if Senate Constitutional Amendment 11 of the 2009–10
5 Regular Session is approved by the voters and, in that event, shall
6 become operative on January 1, 2010.

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